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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,636	09/29/2003	Gary Vacon	160-007	1124

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EXAMINER

NGUYEN, KHAI MINH

ART UNIT	PAPER NUMBER
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2687

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/673,636

Applicant(s)

VACON ET AL.

Examiner

Khai M. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-6,8,10-13,15 and 17-20 is/are rejected.
- 7) ☒ Claim(s) 2,7,9,14,16 and 21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3-6, 8, 10-13, 15, and 17-20 rejected under 35 U.S.C. 102(e) as being anticipated by Thompson et al. (U.S. Ub-20040214572).

Regarding claim 1, Thompson teaches an access point operable to provide wireless network access to client devices coupled to a wireless network (fig,4, paragraph 0030, 0032, *each of the access points is operable to "listen for" or detect*), the access point comprising:

an external indication of the access point's proximity to another access point (abstract), said another access point also for providing to client devices access to the wireless network (abstract, paragraph 0031-0032, 0040-0041).

Regarding claim 3, Thompson teaches an access point operable to provide wireless network access to client devices coupled to a wireless network (fig,4,

paragraph 0030, 0032, *each of the access points is operable to "listen for" or detect*), the access point comprising:

a controller capable of producing a network map that indicates the access point's proximity relative to other access points that are coupled to the network (abstract, paragraph 0031-0032, 0040-0041).

Regarding claim 4, Thompson teaches the access point of claim 3 wherein the controller comprises logic for:

listening for other access points coupled to the wireless network (abstract, paragraph 0032, 0115);

making a list of heard access points (fig.7, paragraph 0034, 0158);

successively reducing transmit power (paragraph 0036, 0145);

ordering the list of heard access points based on which access points can still be heard each time transmit power is reduced (fig.7, paragraph 0034-0036, 0158).

Regarding claim 5, Thompson teaches an access point operable to provide wireless network access to client devices coupled to a wireless network (fig.4, paragraph 0030, 0032, *each of the access points is operable to "listen for" or detect*), the access point comprising:

a controller capable of monitoring wireless network traffic to ascertain whether wireless network traffic has exceeded a threshold (paragraph 0040, 0042, 0094), the controller capable of indicating to other access points coupled to the wireless network

that said other access points should prepare to accept new client devices (paragraph 0040, 0042, 0094), the controller capable of releasing some client devices so that wireless network traffic no longer exceeds the threshold (paragraph 0009, 0040, 0042).

Regarding claim 6, Thompson teaches an access point operable to provide wireless network access to client devices coupled to a wireless network (fig.4, paragraph 0030, 0032, *each of the access points is operable to "listen for" or detect*), the access point comprising:

a controller capable of automatically choosing one of a plurality of radio frequencies on which to operate (paragraph 0040, 0042, 0094), said controller choosing said frequency after evaluating frequencies on which other access points may be operating (paragraph 0039-0040, 0042, 0094).

Regarding claim 8, Thompson teaches a method comprising the steps of:  
providing an access point operable to provide wireless network access to client devices coupled to a wireless network (abstract, paragraph 0031-0032, 0040-0041);  
providing on the access point an external indication of the access point's proximity to another access point (abstract, paragraph 0031-0032, 0040-0041), said another access point also for providing to client devices access to the wireless network (abstract, paragraph 0031-0032, 0040-0041).

Regarding claim 10, Thompson teaches a method comprising the steps of:

providing an access point operable to provide wireless network access to client devices coupled to a wireless network (abstract, paragraph 0031-0032, 0040-0041),  
producing by the access point a network map that indicates the access point's proximity relative to other access points that are coupled to the network (abstract, paragraph 0031-0032, 0040-0041).

Regarding claim 11, Thompson teaches the method of claim 10 wherein the step of producing comprises:

listening for other access points coupled to the wireless network (abstract, paragraph 0032, 0115);

making a list of heard access points (fig.7, paragraph 0034, 0158),

successively reducing transmit power (paragraph 0036, 0145);

ordering the list of heard access points based on which access points can still be heard each time transmit power is reduced (fig.7, paragraph 0034-0036, 0158).

Regarding claim 12, Thompson teaches a method comprising the steps of:

providing an access point operable to provide wireless network access to client devices coupled to a wireless network (abstract, paragraph 0031-0032, 0040-0041);

monitoring by the access point wireless network traffic to ascertain whether wireless network traffic has exceeded a threshold (paragraph 0040, 0042, 0094), the controller capable of indicating to other access points coupled to the wireless network that said other access points should prepare to accept new client devices (paragraph

0040, 0042, 0094), the controller capable of releasing some client devices so that wireless network traffic no longer exceeds the threshold (paragraph 0009, 0040, 0042).

Regarding claim 13, Thompson teaches a method comprising the steps of:  
providing an access point operable to provide wireless network access to client devices coupled to a wireless network (abstract, paragraph 0031-0032, 0040-0041);  
automatically choosing by the access point one of a plurality of radio frequencies on which to operate (paragraph 0040, 0042, 0094), after evaluating frequencies on which other access points may be operating (paragraph 0039-0040, 0042, 0094).

Regarding claim 15, Thompson teaches a program product comprising a computer readable medium having embodied therein a computer program for storing data (paragraph 0034, 0040), the computer program comprising:

logic for causing an external indication of an access point's proximity to another access point, said access point and said another access point for providing to client devices access to a wireless network (abstract, paragraph 0031-0032, 0040-0041).

Regarding claim 17, Thompson teaches a program product comprising a computer readable medium having embodied therein a computer program for storing data (paragraph 0034, 0040), the computer program comprising:

logic for operation in an access point (abstract), the access point operable to provide wireless network access to client devices coupled to a wireless network

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(abstract, paragraph 0031-0032, 0040-0041), the logic for producing a network map that indicates the access point's proximity relative to other access points that are coupled to the network (abstract, paragraph 0031-0032, 0040-0041).

Regarding claim 18, Thompson teaches the program product of claim 17 wherein the logic comprises:

logic for listening for other access points coupled to the wireless network  
(abstract, paragraph 0032, 0115);

logic for making a list of heard access points (fig.7, paragraph 0036, 0145);

logic for successively reducing transmit power (paragraph 0036, 0145);

logic for ordering the list of heard access points based on which access points can still be heard each time transmit power is reduced (fig.7, paragraph 004-0036, 0158).

Regarding claim 19, Thompson teaches a program product comprising a computer readable medium having embodied therein a computer program for storing data (paragraph 0034, 0040), the computer program comprising:

logic for operation in an access point, the access point operable to provide wireless network access to client devices coupled to a wireless network (abstract, paragraph 0031-0032, 0040-0041), the logic for:

monitoring wireless network traffic to ascertain whether wireless network traffic has exceeded a threshold (paragraph 0040, 0042, 0094);



indicating to other access points coupled to the wireless network that said other access points should prepare to accept new client devices (paragraph 0040, 0042, 0094);

releasing some client devices so that wireless network traffic no longer exceeds the threshold (paragraph 0040, 0042, 0094).

Regarding claim 20, Thompson teaches a program product comprising a computer readable medium having embodied therein a computer program for storing data (paragraph 0034, 0040), the computer program comprising:

logic for operation in an access point, the access point operable to provide wireless network access to client devices coupled to a wireless network (abstract, paragraph 0031-0032, 0040-0041), the logic for automatically choosing one of a plurality of radio frequencies on which to operate (paragraph 0039-0040, 0042, 0094), the logic choosing said frequency after evaluating frequencies on which other access points may be operating (paragraph 0039-0040, 0042, 0050, 0094).

***Allowable Subject Matter***

2. Claims 2, 7, 9, 14, 16, 21 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Citation of Pertinent Prior Art***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**Anderson et al.** (U.S.Pat-6334047) discloses Adaptive power control in a mobile radio communications system.

**Rinne et al.** (U.S.Pub-20030190915) discloses Method and system for controlling radio communications network and radio network controller.

**Stewart** (U.S.Pat-6452498) discloses System and method for providing geographic-based advertising.

**Brenner et al.** (U.S.Pat-5923702) discloses Frequency hopping cellular lan system.

**Rautiola et al.** (U.S.Pat-5924030) discloses Cellular extension of a fixed communications network.

**Huomo** (U.S.Pub-20040203863) discloses System and method for initiating location-dependent applications on mobile devices.

***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khai M. Nguyen whose telephone number is 571.272.7923. The examiner can normally be reached on 8:00-5:00.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on 571.272.7922. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Khai Nguyen  
Au: 2687

7/4/2005

  
7/11/05  
LESTER G. KINCAID  
PRIMARY EXAMINER